

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, <i>ex rel.</i> the))
State Engineer,))
)))
Plaintiffs,))
))	No. 69cv07941 BB-ACE
v.)	Rio Chama Stream Adjudication
)))
))	Section 7 and Section 3
)))
RAMON ARAGON et al.,))
)))
Defendants.))
)))

**RESPONSE OF THE UNITED STATES TO THE ASOCIACIÓN DE ACÉQUIAS
NORTEÑAS DE RIO ARRIBA'S MOTION TO ADOPT ORDER FOR NON-WAIVER
OF CLAIMS UNDER THE TREATY OF GUADALUPE HIDALGO**

The United States of America (“United States”) hereby responds to the May 2, 2007, *Asociación de Acéquias Norteñas de Rio Arriba’s Motion to Adopt Order for Non-Waiver of Claims Under the Treaty of Guadalupe Hidalgo* [Doc. No. 8640] (“Acéquias Norteñas Motion”). Consistent with the practice in other New Mexico adjudications, the long-established understanding and practice in this adjudication has been to the effect that the United States, acting for itself and as Trustee for the benefit of the Jicarilla Apache Nation (“Nation”) and Ohkay Owingeh, need not, and should not, raise objections or interject legal or fact-based arguments in the adjudication of water rights elements as between the State of New Mexico ex rel. State Engineer (“State”) and the many subfile defendants in this case, but rather should reserve all such objections and arguments until the Court establishes a specific date for the Nation, Ohkay Owingeh, and the United States to make their *inter se* objections to other parties’ water rights. Presuming, then, that the United States, the Nation, and Ohkay Owingeh are not

bound by any present proceedings between the State and subfile defendants concerning the legal significance of the Treaty of Guadalupe Hidalgo or other aspects of Spanish or Mexican law, the United States takes no position concerning the Acequias Norteñas Motion.

In the event any party asserts that the understanding expressed herein is in error, the United States requests an opportunity to file a further response and urgently moves the Special Master to schedule a hearing or working session to discuss the relative priorities of issues and tasks in all of the water adjudication cases currently pending before the United States District Court for the District of New Mexico. However, Counsel for the United States will not be available to attend the June 11, 2007 working session tentatively scheduled by the May 11, 2007 *Order for Further Proceedings* [Doc. No. 8648]. If matters affecting the United States, the Nation, or Ohkay Owingeh must be discussed, the United States respectfully requests that the working session or hearing be set either before June 8, 2007, or after June 22, 2007.

Counsel for the U.S. discussed this response with counsel for the Nation and for Ohkay Owingeh, who indicated their concurrence.

DATED: May 14, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294
(303) 844-1359

COUNSEL FOR THE UNITED STATES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 14, 2007, I filed the foregoing RESPONSE OF THE UNITED STATES TO THE ASOCIACIÓN DE ACÉQUIAS NORTEÑAS DE RIO ARRIBA'S MOTION TO ADOPT ORDER FOR NON-WAIVER OF CLAIMS UNDER THE TREATY OF GUADALUPE HIDALGO electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

David A. Benavides

davidb@nmlegalaid.org

Frank M. Bond

fbond@simonsfirm.com, ssandoval@simonsfirm.com, gonzales@simonsfirm.com,
fbond@mac.com

Bradley S. Bridgewater

gary.durr@usdoj.gov, jennifer.vaughn2@usdoj.gov, bradley.s.bridgewater@usdoj.gov,
yvonne.marsh@usdoj.gov

Christopher D. Coppin

ccoppin@ago.state.nm.us, tmartinez@ago.state.nm.us

Tessa T. Davidson

ttd@tessadavidson.com

Rebecca A. Dempsey

rdempsey@wkkm.com, fmtz@wkkm.com

Charles T. DuMars

ctd@lrpa-usa.com

Randolph B. Felker

randfelker@aol.com

Jeffrey Fornaciari

jfornaciari@hinklelawfirm.com, mlara@hinklelawfirm.com

Gary S. Friedman

gsf@chflaw.com

Vickie L. Gabin

kbruner@hubwest.com, vlgabin@nm.net

David W. Gehlert

david.gehlert@usdoj.gov, jennifer.vaughn2@usdoj.gov, judy.tetreault@usdoj.gov,
lori.montano@usdoj.gov

Ryan Margaret Golten

ryang@nmlegalaid.org

Noelle Graney

ngraney@nordhauslaw.com, svelody@nordhauslaw.com

Karla JaNelle Haught

janelle.haught@state.nm.us

Mary E. Humphrey

humphrey@newmex.com

Susan G. Jordan

vruiz@nordhauslaw.com, mchavez@nordhauslaw.com, sjordan@nordhauslaw.com

Pierre Levy

pierre@danieljofriel.com, melissa@danieljofriel.com, veronica@danieljofriel.com

Christopher Lindeen

christopher.lindeen@state.nm.us

John F. McCarthy, Jr

jfmc@wkkm.com

David C. Mielke

dmielke@abqsonosky.com, sdressler@abqsonosky.com

Edward G. Newville

ednewville@ixpn.com, connie.flint@state.nm.us, marjorie.dryden@state.nm.us,
fred.kipnes@state.nm.us, hilario.rubio@state.nm.us, lawoffice@higherspeed.net

Brett J. Olsen

brett_olsen@msn.com

Marcus J. Rael, Jr

marcus@roblesrael.com, natalie@roblesrael.com, nicole@roblesrael.com,
diane@roblesrael.com

Walter L. Reardon, Jr

walter@reardonlawnm.com

Peter B. Shoenfeld
petershoenfeld@qwest.net

Arianne Singer
arianne.singer@state.nm.us, lula.valdez@state.nm.us, connie.flint@state.nm.us,
marjorie.dryden@state.nm.us, fred.kipnes@state.nm.us, vina.gallegos@state.nm.us

John W. Utton
jwu@ssslawfirm.com, djs@ssslawfirm.com

Timothy A. Vollmann
tim_vollmann@hotmail.com

Fred Waltz
fwaltz@kitcarson.net, cortega@kitcarson.net

AND I FURTHER CERTIFY that on such date I served the foregoing pleading on the following non-CMF/ECF Participants via first class mail, postage prepaid addressed as follows:

Lee Bergen
Bergen Law Offices
4110 Wolcott Ave NE, #A
Albuquerque, NM 87109

Paul L Bloom
White, Koch, Kelly & McCarthy
PO Box 787
Santa Fe, NM 87504-0787

James C. Brockmann
Stein & Brockmann, PA
PO Box 5250
Santa Fe, NM 87502-5250

Christina J Bruff
Law & Resource Planning Associates
201 Third Street, NW, #1750
Albuquerque, NM 87102

Steven L. Bunch
NM Highway & Transportation Department
PO Box 1149
Santa Fe, NM 87504-1149

Joseph van R. Clarke
Cuddy, Kennedy, Albetta & Ives, LLP
PO Box 4160
Santa Fe, NM 87502-4160

Daniel Cleavenger
PO Box 2470
Farmington, NM 87499

John E. Farrow
Fairfield, Farrow & Strotz
PO Box 35400
Albuquerque, NM 87176-5400

Paula Garcia
607 Cerrillos Rd, #F
Santa Fe, NM 87505

Stacey J. Goodwin
Galisteo St., #205
Santa Fe, NM 87501

Henry Jacquez
1110 Maez Rd
Santa Fe, NM 87501

Mary Ann Joca
US Department of Agriculture
General Counsel
PO Box 586
Albuquerque, NM 87103

Randy E. Lovato
8100 Rancho Sueno Ct., NW
Albuquerque, NM 87120-3488

Hope Miner
23 Cuchilla de Lupe
Placitas, NM 87043

NM Acequia Commission
Fred Vigil, Chairman
NM Acequia Commission
PO Box 687
Medanales, NM 87548-0687

Ernest L. Padilla
Padilla Law Firm, PA
PO Box 2523
Santa Fe, NM 87504

Benjamin Phillips
White, Koch, Kelly & McCarthy
PO Box 787
Santa Fe, NM 87504-0787

Jay F. Stein
Stein & Brockmann, PA
PO Box 5250
Santa Fe, NM 87502-5250

Karen L. Townsend
120 E Chaco
Aztec, NM 87410-1910

Lucas O. Trujillo
PO Box 57
El Rito, NM 87530

Ted J Trujillo
PO Box 2185
Espanola, NM 87532

C. Mott Woolley
112 W. San Francisco, #312C
Santa Fe, NM 87501-2090